

## **The Marrakesh Treaty and the Right To Read**

Mr. Neil Jarvis, General Manager Strategic Relations, The Blind Foundation, New Zealand

I'd like to begin by thanking you for the opportunity to come and speak with you today. I hope this will help to bring Hong Kong and China into the growing club of countries which have recognised the importance of ending the book famine by joining the Marrakesh Treaty.

My name is Neil Jarvis, and I work for the Blind Foundation in New Zealand. I am also the regional co-ordinator for the World Blind Union's Marrakesh Treaty implementation campaign in the Asia Pacific region.

The Marrakech Treaty is the second international treaty specifically dealing with disabled people's rights; the first being the UNCRPD. The Marrakech Treaty will help to implement several articles of the UNCRPD, by removing the copyright law barriers to accessible information and culture. Articles 9, 21 and 30 of the UNCRPD are particularly relevant in this context.

### **Book Famine**

I want to say a few words about the book famine: that is, the lack of access to books and other publications currently experienced by people who have print disabilities.

The electronic revolution of recent years has had a major positive impact on the book famine. However, making a book available in electronic format does not guarantee that that will also be an accessible one. Even with the progress made though, most estimates put the number of books not accessible to print disabled people at more than 90%. The top best-sellers are usually covered nicely, but it is all the other content which we all use to study, work and relax which is missing. The problem is even worse for people in developing countries.

A number of countries around the world have in recent time's enacted legislation which have made exceptions to their Copyright laws, often enabling organisations like mine in New Zealand to make accessible formats of books available with fewer obstacles than in the past. It is still a costly exercise, but it is logistically easier.

This has meant that we have had islands of access around the world, but as time has gone on, little prospect of linking them up.

That has led to the waste and the exhasiation of the book famine caused by needless duplication of content. At home, I have called this the "Harry Potter" effect, whereby many blindness agencies like mine had to produce their own accessible

versions of the Harry Potter books, even though we knew they were already available elsewhere. International copyright restrictions prevented the easy exchange of accessible content across our borders.

I am sure we can all agree that it is a ludicrous system which first makes less than 10% of content accessible, and then causes the needless duplication of that same 10%, thus squandering valuable and scarce resources which are used to transcribe the content into accessible formats. Remember, much of those resources are funded by what we often call the charity dollar, or in specific cases by Government and therefore tax-payer money.

So this is where the Marrakesh Treaty is so important. We've already heard how this is a treaty which has been specifically designed to tackle this problem. Through Marrakesh, and related initiatives such as those provided by the Accessible books Consortium, Trusted organisations such as ours will be able to help distribute accessible content across international borders so that we don't have to make yet another version of the next Harry Potter book which may already have been produced by our colleagues in the UK, and they don't need to re-produce a New Zealand title which we've already added to our collection.

Marrakesh is a massive step forward for us, but it only counts if countries ratify or accede to the treaty.

This is where the need for national campaigns for implementation come in.

At the time of this workshop, 33 countries around the world have joined the treaty. 33 Doesn't sound like a huge amount, but remember the treaty was agreed less than 5 years ago. WIPO have told me in the recent past that Marrakesh is one of the fastest-growing copyright treaties ever.

5 countries in the Asia-Pacific region have already joined, and others are close.

Earlier this month, the 28 countries of the European Union decided that all EU countries will join the treaty, hopefully later this year.

China signed the treaty in 2013, thereby indicating an intent to join at some date in the future. I urge China to follow up on that intent and join as soon as possible.

In 2014, The WBU initiated a ratification campaign. Each WBU region has a ratification campaign coordinator and all work done at the national level is shared with the relevant regional leader. I have the honour of being that person in the Asia Pacific region of the WBU. I'm here to help in a national campaign if that would be of use.

**What are the objectives of this Treaty?**

- The main objective of this Treaty is to help end the “book famine”: the global situation whereby only a very few per cent of books published are available in accessible formats which blind and other print disabled people can read. It does so by allowing blind people and organisations serving them to make and send across national borders accessible books and other copyrighted publications, without the need to ask for the (often unavailable) permission of the author, publisher or other holder of copyright.

### **What are the key elements of this Treaty?**

- The Treaty recognises that outdated copyright law acts as a barrier to print disabled people’s access to communication, education and research and scientific knowledge;
- It recognises the shortage of availability of published works in accessible formats;
- It also recognises the importance of appropriate limitations and exceptions to copyright law in order to ensure published works in accessible formats;
- It acknowledges the need to strike a balance between the protection of the rights of the author and larger public interest, particularly education, research and access to information;
- It defines “Works” ( in layman’s terms “works” means books and other published material) in a broad way, allowing almost any published work to be transcribed into an accessible format / distributed under its terms;
- It defines “Accessible format” broadly and helpfully;
- It defines in broad terms the organisations that can use the Treaty to make or send accessible books. It calls these organisations “Authorized entities”;
- The people the Treaty is designed to serve, which it terms “beneficiaries”, are broadly defined, and includes those who are blind, visually impaired, or have a perceptual or other reading disability;
- The Treaty allows for the exchange of accessible published works across borders from one authorised entity to another, and also from an authorised entity to an individual;
- The Treaty does not allow authorised entities to use its provisions on a profit making basis.

### **What is the significance of this Treaty to persons with visual disabilities?**

- This Treaty will help to end the “book famine” print disabled people still face;
- It will speed up the creation and implementation of national copyright exceptions for print disabled people in the many countries which still do not have these. You can’t benefit from the treaty unless your country has appropriate domestic copyright legislation;
- It will allow repositories of accessible books, often housed in libraries or blind persons’ organisations, to be shared across national borders. This is vital. At present there is duplication of effort and cost when two such organisations in different countries, but sharing the same language, both make the same book accessible. The Treaty will allow such organisations to pool resources, save money and therefore produce and share a greater number of accessible format books.

### **What should national governments do to implement the Treaty?**

- Speedily ratify it;
- Amend or enact national copyright law to include appropriate limitations and exceptions in line with the Treaty;
- Prepare an action plan to implement the Treaty, working with blind people’s and other disability organisations and other relevant stakeholders such as libraries;
- Where possible, provide financial resources to authorised entities and other statutory institutions to help implement the provisions of the Treaty.

### **What is WBU and its members doing to ensure national governments ratify the Treaty?**

- Study and understand the provisions of the Treaty;
- Train a group of advocates to work closely with national government on an enlightened and full implementation of the Treaty;
- Sensitise and train government officials on the need for and importance of the Treaty;
- Work with WBU’s regional ratification leaders and friendly organisations to achieve speedy and effective ratification by national governments of the Treaty.

### **The Mid-term Regional Assembly of the WBU Asia Pacific Region**

**took place here in Hong Kong in November 2014. The closing statement began with the following:**

**“1. Call upon all governments throughout the Asia-Pacific region to ratify the Marrakesh Treaty at the earliest opportunity so that persons who are blind or partially sighted (blind) or who have other print disability, have full access to works of literature, culture and to educational materials.**

**2. Welcome the opportunity to co-operate with the United Nations (UN) Development Programme to build capacity across the region so that persons who are blind or who have print disability are able to advocate for greater access to information.”**

Since May 2014, We in the WBUAP have been working closely with colleagues led by Kazayuki Ugi in the United Nations Development Programme Asia Pacific (UNDP) and through them The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP)- the Social and Development Division

UNESCAP to develop partnerships for supporting the Marrakesh Treaty process in the region. Many of the UNDP’s initiatives will be greatly facilitated with easier exchange of accessible information in the region. UNESCAP is the custodian of the Incheon Strategy to “Make the Right Real” for Persons with Disabilities to which this Marrakesh Treaty partnership initiative is contributing to.

As a way to develop a common understanding and a guiding framework for our partnership, we first jointly developed a concept note.

- the concept note laid out a wide range of activities which will help us understand the current landscape, identify priority issues, challenges and opportunities, and carry out evidence-informed policy advocacy. One such activity is to carry out a mapping study.

The subsequent mapping study led to a detailed report in December 2015 which provided in-depth analyses of copyright or related legislations for select Asia-Pacific countries, including suggested legal provisions to facilitate policy advocacy and legislative amendments to comply with the Marrakesh Treaty provisions – to facilitate the ratification.

**A follow-up Issue Brief was published in December 2017.**

**The WBU at a global level has also produced a resource which examines the current legislative situation in selected countries around the world, and identifies the gap between current and necessary legislation.**

**One of those countries was China.**

**All of these resources are available to anyone who wishes to campaign for their country to join the treaty.**

So you can see that there is much work under-way to support each and every country in this part of the world, and indeed all over the world by ratifying the Marrakesh Treaty. I want to work with all of you to make that happen. Let us use today as a springboard from which to launch the greater campaign all over this region. I look forward to talking with u throughout the day, and to staying in touch when we all go home so that we may deliver ratification in as many countries as possible, and in particular, in China.